

---

## LESSON 12

### LEGAL ASPECTS OF OOTW

---

*The history of the United States shows that in spite of the varying trend of the foreign policy of succeeding administrations, this Government has interposed or intervened in the affairs of other states with remarkable regularity, and it may be anticipated that the same general procedure will be followed in the future.*

--Chap I, Sec 1-3,  
"Some Legal Aspects of Small Wars,"  
*U.S. Marine Corps Small Wars Manual*,

1940

## Introduction

---

<b>Purpose</b>	This lesson will familiarize you with the regulations and policies governing operations other than war (OOTW).
----------------	--

---

<b>Why Study Legal Aspects of OOTW?</b>	Without some knowledge of the host nation laws, it is difficult for a military force to make contracting arrangements and to perform law enforcement activities.
---	--

---

<b>Relationship To Other Instruction</b>	Operational law is as significant to a commander as maneuver, fire support, or logistics during OOTW.
--	---

---

<b>Study Time</b>	This lesson, including the issues for consideration, will require about 1 hour of study.
-------------------	--

---

## Educational Objectives

---

<b>Understanding The Regulations</b>	Explain the impact of major regulations and laws applicable to OOTW. [JPME Area 3(a)]
--	--

---

<b>Evaluate Law Restraints</b>	Evaluate operational law restraints and the rights to employ force during OOTW. [JPME Area 3(a)]
------------------------------------	--

---

<b>Evaluate International Agreements</b>	Evaluate international agreements which may be applicable to OOTW. [JPME Area 3(a)]
--	--

---

<b>JPME Areas/ Objectives/Hours (accounting data)</b>	3/a/.5
---	--------

---

## Discussion

---

**Policy Governing OOTW** Operations other than war involve a myriad of statutory, regulatory, and policy considerations, both foreign and domestic, in addition to the normal constraints associated with deployments and operations.

Most of the legal requirements for OOTW are similar to those of conventional military operations. However, because of the unique legal character of OOTW, these legal requirements have a different emphasis in OOTW.

The most important legal issue during any type of OOTW is its legal justification. Indeed, the legitimacy and credibility of most OOTW must be established by U.N. resolution, host nation request, or other legal basis.

---

**Host Nation Laws** Because most OOTW are not considered "armed conflicts," the law of armed conflict may not be an appropriate legal guide. It is therefore particularly important in OOTW for the Staff Judge Advocate (SJA) to understand and provide guidance to the operational commander on applicable host nation laws.

Understanding host nation laws requires the military to obtain copies of relevant statutes and to develop points of contact with experts on these laws. During Operation Restore Hope, copies of the Somalia code were used as well as points of contact on Somali law that were obtained through the Library of Congress.

---

## Required Readings

---

- Operations Other Than War (OOTW) Readings*** wZinni, Anthony C., (LtGen) USMC. "The SJA in Future Operations." *Marine Corps Gazette*, February 1996. Find this reading in the *Operations Other Than War (OOTW) Readings*, Annex K, pp. K- to K-. LtGen Zinni explains the increasing role that the SJA plays in the multitude of missions bestowed on Marine units today.
- wFinnegan, Patrick (Colonel) USA. "Operational Law: Plan and Execute." *Military Review*, March-April 1996. Find this reading in the *Operations Other Than War (OOTW) Readings*, Annex K, pp. K- to K-. Col Finnegan explains the importance of integrating law and lawyers into military planning.
- 
- Joint Pub Readings*** Joint Pub 3-07, *Joint Doctrine for Military Operations Other Than War*, Chapter IV, pp. IV-8 to IV-9. Find this reading in the *Joint Pub Readings* Vol. III (8800), pp. 846 to 847. The article covers DoD requirements pertaining to law in MOOTW.
-

## For Further Study

---

### Supplemental Readings

The readings listed are **not** required. They are provided as recommended sources of additional information about topics in this lesson that may interest you. They will increase your knowledge and augment your understanding of this lesson.

wJoint Pub 3-0, *Doctrine for Joint Operations*.

wJoint Pub 5-0, *Doctrine for Planning Joint Operations*.

wJoint Force Commander's Handbook for Peace Operations.

---

## Issues For Consideration

---

<b>Legal and Fiscal Restraints</b>	During the various types of OOTW such as peace operations, DoD counterdrug support, and military support to civil authorities, you may encounter legal and fiscal restraints that are often technical and statutory in nature. The restraints may involve activities not directly related to your mission. For example, these restraints could arise during peace operations while you are rendering logistics assistance to nongovernmental organizations (NGOs), private voluntary organizations (PVOs), multinational forces, or others. How do you know or determine what can legally be accomplished? What determines what is permitted or prohibited?
<b>Rules of Engagement</b>	Is the development and promulgation of rules of engagement (ROE) primarily a legal issue, a policy issue, or an operational issue during OOTW?
<b>Scope of Support</b>	What determines the scope of support that the U.S. military can provide during its participation in certain types of OOTW? These operations may include military support to civil authorities and DoD counterdrug support.

---